

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF DELAWARE**

In re:

ASHINC Corporation, et al.,  
  
Debtors.

Chapter 11

Case No. 12-11564 (CSS)  
(Jointly Administered)

CATHERINE E. YOUNGMAN, LITIGATION  
TRUSTEE FOR ASHINC CORPORATION, ET.  
AL., AS SUCCESSOR TO THE OFFICIAL  
COMMITTEE OF UNSECURED CREDITORS OF  
ASHINC CORPORATION, AND ITS AFFILIATED  
DEBTORS

Adv. Proc. No. 13-50530 (CSS)

Civ. Action No. 1:21-cv-00994-CFC

Plaintiff,

BLACK DIAMOND OPPORTUNITY FUND II, LP,  
BLACK DIAMOND CLO 2005-1 LTD., and  
SPECTRUM INVESTMENT PARTNERS, L.P.,

Intervenors,

v.

YUCAIPA AMERICAN ALLIANCE FUND I, L.P.,  
YUCAIPA AMERICAN ALLIANCE (PARALLEL)  
FUND I, L.P., YUCAIPA AMERICAN ALLIANCE  
FUND II, L.P., YUCAIPA AMERICAN ALLIANCE  
(PARALLEL) FUND II, L.P., MARK  
GENDREGSKE, JOS OPDEWEEGH, JAMES  
FRANK, DEREX WALKER, JEFF PELLETIER,  
IRA TOCHNER, and JOSEPH TOMCZAK,

Defendants.

CATHERINE E. YOUNGMAN, LITIGATION  
TRUSTEE FOR ASHINC CORPORATION, ET AL.,  
AS SUCCESSOR TO BLACK DIAMOND  
OPPORTUNITY FUND II, LP, BLACK DIAMOND  
CLO 2005-1 LTD., SPECTRUM INVESTMENT  
PARTNERS, L.P., BLACK DIAMOND  
COMMERCIAL FINANCE, L.L.C., as co-  
administrative agent, and SPECTRUM  
COMMERCIAL FINANCE LLC, as co-

Adv. Pro. No. 14-50971 (CSS)

Civ. Action No. 1:21-cv-00995-CFC

administrative agent,

Plaintiff,

v.

YUCAIPA AMERICAN ALLIANCE FUND I, L.P.,  
YUCAIPA AMERICAN ALLIANCE (PARALLEL)  
FUND I, L.P., YUCAIPA AMERICAN ALLIANCE  
FUND II, L.P., YUCAIPA AMERICAN ALLIANCE  
(PARALLEL) FUND II, L.P., RONALD BURKLE,  
JOS OPDEWEEGH, DEREK WALKER, JEFF  
PELLETIER, IRA TOCHNER, and JOSEPH  
TOMCZAK,

Defendants.

**APPELLANT’S DESIGNATION OF THE RECORD ON APPEAL AND  
STATEMENT OF THE ISSUES TO BE PRESENTED ON APPEAL**

Appellant Yucaipa American Alliance Fund I, L.P. and Yucaipa American Alliance (Parallel) Fund I, L.P. (collectively, “Yucaipa”) pursuant to Federal Rule of Bankruptcy Procedure 8009(a)(1)(A), hereby designates the following items<sup>1</sup> to be included in the record on appeal and states the issues to be presented on appeal:

**I. Designation of Items to be Included in the Record on Appeal**

**Adv. Pro. No. 13-50530 (CSS)**

<b>Adv. Pro No. 13-50530, Docket No.</b>	<b>Date Filed</b>	<b>Description</b>
1	02/01/13	Official Committee of Unsecured Creditors’ Complaint for (I) Equitable Subordination, (II) Recharacterization, (III) Breach of Contract, (IV) Specific Performance, (V) Breaches of Fiduciary Duties, (VI) Aiding and Abetting Breaches of Fiduciary Duties, (VII) Avoidance and Recovery of Avoidable Transfers, and (VIII) Disallowance of Certain Claims

<sup>1</sup> Unless otherwise indicated, the designation of each item herein includes any exhibits and/or attachments filed together with that item under the same docket number. The designation also includes the sealed version of any document that was filed under seal.

<b>Adv. Pro No. 13-50530, Docket No.</b>	<b>Date Filed</b>	<b>Description</b>
16	02/11/13	Answer and Affirmative Defenses of Defendants Yucaipa American Alliance Fund I, L.P., Yucaipa American Alliance (Parallel) Fund I, L.P., Yucaipa American Alliance Fund II, L.P. and Yucaipa American Alliance (Parallel) Fund II, L.P.
76	03/14/13	The Official Committee of Unsecured Creditors' Amended Complaint for (I) Equitable Subordination, (II) Recharacterization, (III) Breach of Contract, (IV) Specific Performance, (V) Breaches of Fiduciary Duties, (VI) Aiding and Abetting Breaches of Fiduciary Duties, (VII) Allowance and Recovery of Avoidable Transfers, and (VIII) Disallowance of Certain Claims
95	04/01/13	Answer to Amended Complaint
415	07/17/17	Order Substituting Plaintiffs and Amending Captions in Above-Referenced Adversary Proceedings to Reflect Litigation Trustee as Plaintiff
416	08/31/17	Certification of Counsel Regarding Agreed Amended Scheduling Order
429	05/24/18	Yucaipa and the Yucaipa-Affiliated Directors' Reply to Mark Gendregske's Motion for an Order Directing Mediation
599	07/25/19	Joint Procedural History
695	05/01/20	Letter to The Honorable Karen B. Owens Regarding Yucaipa Defendants Motions for Summary Judgment Filed by Ronald Burkle, Jos Opdeweegh, Jeff Pelletier, Ira Tochner, Joseph Tomczak, Derex Walker, Yucaipa American Alliance (Parallel) Fund I, L.P., Yucaipa American Alliance Fund I, L.P..
696	05/01/20	Motion for Summary Judgment by Defendants Yucaipa American Alliance Fund I, L.P. and Yucaipa American Alliance (Parallel) Fund I, L.P.
697	05/01/20	[SEALED] Brief - Memorandum of Points and Authorities in Support of Motion For Summary Judgment by Defendants Yucaipa American Alliance Fund I, L.P., and Yucaipa American Alliance (Parallel) Fund I, L.P. Filed by Yucaipa American Alliance (Parallel) Fund I, L.P., Yucaipa American Alliance Fund I, L.P
698	05/01/20	Motion For Summary Judgment by Ronald Burkle, Jos Opdeweegh, Derex Walker, Jeff Pelletier, and Ira Tochner
699	05/01/20	[SEALED] Brief - Memorandum of Points and Authorities in Support of Motion For Summary Judgment by Ronald Burkle, Jos Opdeweegh, Derex Walker, Jeff Pelletier, and Ira Tochner Filed by Jos Opdeweegh, Jeff Pelletier, Ira Tochner, Joseph Tomczak, Derex Walker.
700	05/01/20	[SEALED] Declaration of Kahn Scolnick in Support of Motion For Summary Judgment by Defendants Yucaipa American Alliance Fund I, L.P., Yucaipa American Alliance (Parallel) Fund I, L.P., Ronald Burkle, Jos Opdeweegh, Derex Walker, Jeff Pelletier, and Ira Tochner Filed by Jos Opdeweegh, Jeff Pelletier, Ira Tochner, Joseph Tomczak, Derex Walker, Yucaipa American Alliance (Parallel) Fund I, L.P., Yucaipa American Alliance Fund I, L.P..

<b>Adv. Pro No. 13-50530, Docket No.</b>	<b>Date Filed</b>	<b>Description</b>
701	05/01/20	[SEALED] Declaration of Derex Walker in Support of Motion for Summary Judgment Filed by Jos Opdeweegh, Jeff Pelletier, Ira Tochner, Joseph Tomczak, Derex Walker, Yucaipa American Alliance (Parallel) Fund I, L.P., Yucaipa American Alliance Fund I, L.P.
702	05/01/20	[SEALED] Declaration of Ira Tochner in Support of Motion for Summary Judgment Filed by Ira Tochner, Joseph Tomczak, Derex Walker, Yucaipa American Alliance (Parallel) Fund I, L.P., Yucaipa American Alliance Fund I, L.P.
703	05/01/20	[SEALED] Declaration of Jeff Pelletier in Support of Motion for Summary Judgment Filed by Jos Opdeweegh, Jeff Pelletier, Ira Tochner, Joseph Tomczak, Derex Walker, Yucaipa American Alliance (Parallel) Fund I, L.P., Yucaipa American Alliance Fund I, L.P.
704	05/01/20	[SEALED] Declaration of Jos Opdeweegh in Support of Motion for Summary Judgment Filed by Jos Opdeweegh, Jeff Pelletier, Ira Tochner, Joseph Tomczak, Derex Walker, Yucaipa American Alliance (Parallel) Fund I, L.P., Yucaipa American Alliance Fund I, L.P.
705	05/01/20	Litigation Trustee's Motion for Partial Summary Judgment
706	05/01/20	[SEALED] Memorandum of Law Litigation Trustee's Memorandum in Support of Motion for Partial Summary Judgment Filed by Catherine E. Youngman
710	05/01/20	[SEALED] Declaration in Support of Motion for Partial Summary Judgment of Gila S. Singer Filed by Catherine E. Youngman.
712	05/01/20	[NOTICE OF PROPOSED REDACTED VERSION OF DOCUMENT]Memorandum of Law in Support of Litigation Trustee's Motion for Partial Summary Judgment (Redacted) Filed by Catherine E. Youngman.
713	05/01/20	Declaration in Support of Motion for Partial Summary Judgment of Gila S. Singer Filed by Catherine E. Youngman
719	05/06/20	Notice of Filing of Final Redacted Version of - (REDACTED) Memorandum of Points and Authorities in Support of Motion For Summary Judgment by Defendants Yucaipa American Alliance Fund I, L.P., and Yucaipa American Alliance (Parallel) Fund I, L.P. Filed by Yucaipa American Alliance (Parallel) Fund I, L.P., Yucaipa American Alliance Fund I, L.P.
720	05/06/20	Notice of Filing of Final Redacted Version of - (REDACTED) Memorandum of Points and Authorities in Support of Motion For Summary Judgment by Ronald Burkle, Jos Opdeweegh, Derex Walker, Jeff Pelletier, and Ira Tochner Filed by Ronald Burkle, Jos Opdeweegh, Jeff Pelletier, Ira Tochner, Joseph Tomczak, Derex Walker
721	05/06/20	Notice of Filing of Final Redacted Version of - (REDACTED) Declaration of Kahn Scolnick in Support of Motion For Summary Judgment by Defendants Yucaipa American Alliance Fund I, L.P., Yucaipa American Alliance (Parallel) Fund I, L.P., Ronald Burkle,

<b>Adv. Pro No. 13-50530, Docket No.</b>	<b>Date Filed</b>	<b>Description</b>
		Jos Opdeweegh, Derex Walker, Jeff Pelletier, and Ira Tochner Filed by Ronald Burkle, Jos Opdeweegh, Jeff Pelletier, Ira Tochner, Joseph Tomczak, Derex Walker, Yucaipa American Alliance (Parallel) Fund I, L.P., Yucaipa American Alliance Fund I, L.P.
722	05/06/20	Notice of Filing of Final Redacted Version of - (REDACTED) Declaration of Derex Walker in Support of Motion for Summary Judgment (related document(s)698, 701) Filed by Jos Opdeweegh, Jeff Pelletier, Ira Tochner, Joseph Tomczak, Derex Walker, Yucaipa American Alliance (Parallel) Fund I, L.P., Yucaipa American Alliance Fund I, L.P.
723	05/06/20	Notice of Filing of Final Redacted Version of - (REDACTED) Declaration of Ira Tochner in Support of Motion For Summary Judgment Filed by Ronald Burkle, Jos Opdeweegh, Jeff Pelletier, Ira Tochner, Joseph Tomczak, Derex Walker, Yucaipa American Alliance (Parallel) Fund I, L.P., Yucaipa American Alliance Fund I, L.P.
724	05/06/20	Notice of Filing of Final Redacted Version of - (REDACTED) Declaration of Jeff Pelletier in Support of Motion For Summary Judgment Filed by Ronald Burkle, Jos Opdeweegh, Jeff Pelletier, Ira Tochner, Joseph Tomczak, Derex Walker, Yucaipa American Alliance (Parallel) Fund I, L.P., Yucaipa American Alliance Fund I, L.P.
725	05/06/20	Notice of Filing of Final Redacted Version of - (REDACTED) Declaration of Jos Opdeweegh in Support of Motion For Summary Judgment Filed by Ronald Burkle, Jos Opdeweegh, Jeff Pelletier, Ira Tochner, Joseph Tomczak, Derex Walker, Yucaipa American Alliance (Parallel) Fund I, L.P., Yucaipa American Alliance Fund I, L.P.
729	05/08/20	[SEALED] Declaration of Ronald Burkle in Support of Motion for Summary Judgment Filed by Jos Opdeweegh, Jeff Pelletier, Ira Tochner, Joseph Tomczak, Derex Walker, Yucaipa American Alliance (Parallel) Fund I, L.P., Yucaipa American Alliance Fund I, L.P.
731	05/11/20	Declaration - (REDACTED) Declaration of Ronald Burkle in Support of Motion for Summary Judgment Filed by Jos Opdeweegh, Jeff Pelletier, Ira Tochner, Joseph Tomczak, Derex Walker, Yucaipa American Alliance (Parallel) Fund I, L.P., Yucaipa American Alliance Fund I, L.P.
759	08/14/20	Transcript regarding Hearing Held 8/11/20 RE: Status.
762	08/21/20	[SEALED] Brief - Memorandum of Points and Authorities in Support of Motion For Summary Judgment by Defendants Yucaipa American Alliance Fund I, L.P., and Yucaipa American Alliance (Parallel) Fund I, L.P. Filed by Yucaipa American Alliance (Parallel) Fund I, L.P., Yucaipa American Alliance Fund I, L.P.
763	08/21/20	Notice of Filing of Proposed Redacted Version of Brief Memorandum of Points and Authorities in Support of Motion For Summary Judgment by Defendants Yucaipa American Alliance Fund

<b>Adv. Pro No. 13-50530, Docket No.</b>	<b>Date Filed</b>	<b>Description</b>
		I, L.P., and Yucaipa American Alliance (Parallel) Fund I, L.P. Filed by Yucaipa American Alliance (Parallel) Fund I, L.P., Yucaipa American Alliance Fund I, L.P.
764	08/21/20	[SEALED] Brief - Memorandum of Points and Authorities in Support of Motion For Summary Judgment by Ronald Burkle, Jos Opdeweegh, Derex Walker, Jeff Pelletier, and Ira Tochner Filed by Jos Opdeweegh, Jeff Pelletier, Ira Tochner, Derex Walker.
765	08/21/20	Notice of Filing Proposed Redacted Version of Brief Memorandum of Points and Authorities in Support of Motion For Summary Judgment by Ronald Burkle, Jos Opdeweegh, Derex Walker, Jeff Pelletier, and Ira Tochner Filed by Jos Opdeweegh, Jeff Pelletier, Ira Tochner, Derex Walker.
766	08/21/20	[SEALED] Brief - Opposition to the Litigation Trustee's Motion for Summary Judgment by Defendants Yucaipa American Alliance Fund I, L.P., Yucaipa American Alliance (Parallel) Fund I, L.P., Ronald Burkle, Ira Tochner, Derex Walker, Jos Opdeweegh, and Jeff Pelletier Filed by Jos Opdeweegh, Jeff Pelletier, Ira Tochner, Derex Walker, Yucaipa American Alliance (Parallel) Fund I, L.P., Yucaipa American Alliance Fund I, L.P.
767	08/21/20	[SEALED] Declaration of Kahn Scolnick in Support of Yucaipa Defendants' Opposition to the Litigation Trustee's Motion for Summary Judgment Filed by Jos Opdeweegh, Jeff Pelletier, Ira Tochner, Derex Walker, Yucaipa American Alliance (Parallel) Fund I, L.P., Yucaipa American Alliance Fund I, L.P.
768	08/21/20	[SEALED] Objection /Litigation Trustee's Opposition To The Motion For Summary Judgment By Ronald Burkle, Jos Opdeweegh, Derex Walker, Jeff Pelletier, And Ira Tochner Filed by Catherine E. Youngman
769	08/21/20	Notice of Filing of Proposed Redacted Version of Litigation Trustee's Opposition To The Motion For Summary Judgment By Ronald Burkle, Jos Opdeweegh, Derex Walker, Jeff Pelletier, And Ira Tochner Filed by Catherine E. Youngman
770	08/21/20	[SEALED] Objection /Litigation Trustee's Opposition To The Motion For Summary Judgment By Defendants Yucaipa American Alliance Fund I, L.P., And Yucaipa American Alliance (Parallel) Fund I, L.P. Filed by Catherine E. Youngman
771	08/21/20	Notice of Filing of Proposed Redacted Version of Litigation Trustee's Opposition To The Motion For Summary Judgment By Defendants Yucaipa American Alliance Fund I, L.P., And Yucaipa American Alliance (Parallel) Fund I, L.P. Filed by Catherine E. Youngman
772	08/21/20	Declaration in Support /Declaration Of Gila S. Singer In Support Of Litigation Trustee's Oppositions To The Motion For Summary Judgment By Defendants Yucaipa American Alliance Fund I, L.P., And Yucaipa American Alliance (Parallel) Fund I, L.P., And The Motion For Summary Judgment By Ronald Burkle, Jos Opdeweegh, Derex Walker, Jeff Pelletier, And Ira Tochner
775	08/26/20	Notice of Filing of Proposed Redacted Version of Document -



<b>Adv. Pro No. 13-50530, Docket No.</b>	<b>Date Filed</b>	<b>Description</b>
		(REDACTED) Opposition to the Litigation Trustee's Motion for Summary Judgment by Defendants Yucaipa American Alliance Fund I, L.P., Yucaipa American Alliance (Parallel) Fund I, L.P., Ronald Burkle, Ira Tochner, Derex Walker, Jos Opdeweegh, and Jeff Pelletier Filed by Jos Opdeweegh, Jeff Pelletier, Ira Tochner, Derex Walker, Yucaipa American Alliance (Parallel) Fund I, L.P., Yucaipa American Alliance Fund I, L.P.
776	08/26/20	Notice of Filing of Proposed Redacted Version of Document - (REDACTED) Declaration of Kahn Scolnick in Support of Yucaipa Defendants' Opposition to the Litigation Trustee's Motion for Summary Judgment Filed by Jos Opdeweegh, Jeff Pelletier, Ira Tochner, Derex Walker, Yucaipa American Alliance (Parallel) Fund I, L.P., Yucaipa American Alliance Fund I, L.P.
793	12/01/20	Stipulation of Voluntary Dismissal With Prejudice
794	12/18/20	[SEALED]Memorandum of Law Litigation Trustees Reply Memorandum in Further Support of Motion for Summary Judgment Filed by Catherine E. Youngman
795	12/18/20	Memorandum of Law Litigation Trustee's Reply Memorandum in Further Support of Motion for Summary Judgment Filed by Catherine E. Youngman.
796	12/18/20	[SEALED] Declaration of Gila S. Singer in Support of Litigation Trustees Reply Memorandum in Further Support of Motion for Partial Summary Judgment Filed by Catherine E. Youngman
797	12/18/20	Declaration of Gila S. Singer in Support of Litigation Trustees Reply Memorandum in Further Support of Motion for Partial Summary Judgment Filed by Catherine E. Youngman
798	12/18/20	[SEALED] Declaration of Richard A. Ehrlich in Support of Litigation Trustees Reply Memorandum in Further Support of Motion for Partial Summary Judgment Filed by Catherine E. Youngman
799	12/18/20	Notice of Proposed Redacted Version of Document: Declaration of Richard A. Ehrlich in Support of Litigation Trustees Reply Memorandum in Further Support of Motion for Partial Summary Judgment Filed by Catherine E. Youngman
800	12/18/20	[SEALED] Declaration of Adam C. Harris in Support of Litigation Trustees Reply Memorandum in Further Support of Motion for Partial Summary Judgment Filed by Catherine E. Youngman
801	12/18/20	Declaration of Adam C. Harris in Support of Litigation Trustee's Reply Memorandum in Further Support of Motion for Partial Summary Judgment Filed by Catherine E. Youngman
802	12/18/20	Declaration of Jeffrey A. Schaffer in Support of Litigation Trustee's Reply Memorandum in Further Support of Motion for Partial Summary Judgment Filed by Catherine E. Youngman
803	12/18/20	[SEALED] Reply in Support of Motion for Summary Judgment by Defendants Yucaipa American Alliance Fund I, L.P., and Yucaipa American Alliance (Parallel) Fund I, L.P. Filed by Yucaipa American Alliance (Parallel) Fund I, L.P., Yucaipa American Alliance Fund I,

<b>Adv. Pro No. 13-50530, Docket No.</b>	<b>Date Filed</b>	<b>Description</b>
		L.P.
804	12/18/20	[SEALED] Declaration of Maurice M. Suh in Further Support of Yucaipa Defendants' Motion for Summary Judgment Filed by Yucaipa American Alliance (Parallel) Fund I, L.P., Yucaipa American Alliance Fund I, L.P.
808	12/23/20	Notice of Filing of Proposed Redacted Version of Document - (REDACTED) Reply in Support of Motion for Summary Judgment by Defendants Yucaipa American Alliance Fund I, L.P., and Yucaipa American Alliance (Parallel) Fund I, L.P. Filed by Yucaipa American Alliance (Parallel) Fund I, L.P., Yucaipa American Alliance Fund I, L.P.
816	02/08/21	Letter to Chief Judge Sontchi regarding letter briefs addressing Maxus case Filed by Catherine E. Youngman
818	02/16/21	***REVISED AT DI #822***. Transcript Regarding Hearing Held 2/4/21 RE: Summary Judgment.
819	02/19/21	Letter to the Honorable Christopher S. Sontchi from Kahn Scolnick Regarding Applicability of In re Maxus Energy Corp. Filed by Yucaipa American Alliance (Parallel) Fund I, L.P., Yucaipa American Alliance Fund I, L.P.
820	02/19/21	Letter to Chief Judge Christopher S. Sontchi Filed by Catherine E. Youngman
821	02/23/21	Letter to the Honorable Christopher S. Sontchi Regarding Response to Litigation Trustee's Letter on Applicability of In re Maxus Energy Corp. Filed by Yucaipa American Alliance (Parallel) Fund I, L.P., Yucaipa American Alliance Fund I, L.P.
822	03/17/21	Transcript regarding Hearing Held 2/4/21 RE: Cross Motions for Summary Judgment.
825	05/04/21	Opinion
826	05/04/21	Order
828	05/18/21	Objection to Proposed Findings of Fact and Conclusions of Law Pursuant to FRBP 9033 Filed by Yucaipa American Alliance (Parallel) Fund I, L.P., Yucaipa American Alliance Fund I, L.P.
829	05/18/21	Letter to Judge Sontchi Transmitting Proposed Judgment Filed by Catherine E. Youngman
830	05/18/21	Objection to Entry of Judgment and Additional Objections to the Proposed Form of Judgment Submitted by the Litigation Trustee; Request for Stay in the Alternative Filed by Yucaipa American Alliance (Parallel) Fund I, L.P., Yucaipa American Alliance Fund I, L.P.
836	06/22/21	Litigation Trustee's Memorandum In Response To: (1) Yucaipa's Objections To Summary Judgment Opinion And Order, Entry Of Judgment, And Proposed Form Of Judgment, And (2) Questions From The Court Filed by Catherine E. Youngman
837	06/22/21	Letter to Chief Judge Sontchi regarding Amended Proposed Form of Judgment Filed by Catherine E. Youngman.
838	06/22/21	Defendants Yucaipa American Alliance Fund I, L.P. and Yucaipa



<b>Adv. Pro No. 13-50530, Docket No.</b>	<b>Date Filed</b>	<b>Description</b>
		American Alliance (Parallel) Fund I, L.P.'s Reply in Further Support of Its Objections to the Entry of Judgment Filed by Yucaipa American Alliance (Parallel) Fund I, L.P., Yucaipa American Alliance Fund I, L.P.
839	06/22/21	Motion for Leave to File Defendants Yucaipa American Alliance Fund I, L.P. and Yucaipa American Alliance (Parallel) Fund I, L.P.'s Reply in Further Support of Its Objections to the Entry of Judgment Filed by Yucaipa American Alliance (Parallel) Fund I, L.P., Yucaipa American Alliance Fund I, L.P.
840	06/23/21	Order Granting Motion for Leave to File Defendants Yucaipa American Alliance Fund I, L.P. and Yucaipa American Alliance (Parallel) Fund I, L.P.'s Reply in Further Support of Its Objections to the Entry of Judgment
841	06/23/21	Judgment
845	06/25/21	Motion To Stay Pending Appeal Filed by Yucaipa American Alliance (Parallel) Fund I, L.P., Yucaipa American Alliance Fund I, L.P.
848	06/25/21	Emergency Motion to Shorten Notice and Schedule Hearing on Defendants Yucaipa American Alliance Fund I, L.P. and Yucaipa American Alliance (Parallel) Fund I, L.P.'s Motion for Stay of Effectiveness and Enforcement of Judgment Pending Appeal Pursuant to Bankruptcy Rules 7062 and 8007(a) by Yucaipa American Alliance (Parallel) Fund I, L.P., Yucaipa American Alliance Fund I, L.P.
849	06/25/21	Order (WITH REVISION OF THE COURT) Granting Emergency Motion to Shorten Notice and Schedule Hearing on Defendants Yucaipa American Alliance Fund I, L.P. and Yucaipa American Alliance (Parallel) Fund I, L.P.'s Motion for Stay of Effectiveness and Enforcement of Judgment Pending Appeal
850	06/25/21	Notice of Hearing Regarding Defendants Yucaipa American Alliance Fund I, L.P. and Yucaipa American Alliance (Parallel) Fund I, L.P.'s Motion for Stay of Effectiveness and Enforcement of Judgment Pending Appeal Pursuant to Bankruptcy Rules 7062 and 8007(a) Filed by Yucaipa American Alliance (Parallel) Fund I, L.P., Yucaipa American Alliance Fund I, L.P.
857	07/06/21	ORDER STAYING ENFORCEMENT OF JUDGMENT
858	07/06/21	Notice of Appeal
864	07/08/21	Transcript regarding Hearing Held 07/06/21

**Adv. Pro. No. 14-50971**

<b>Adv. Pro No. 14-50971, Docket No.</b>	<b>Date Filed</b>	<b>Description</b>
1	11/19/14	Complaint for (I) Equitable Subordination, (II) Breach of Contract, (III) Breach of Implied Duty of Good Faith and Fair Dealing, and (IV) Tortious Interference With Contract

Adv. Pro No. 14-50971, Docket No.	Date Filed	Description
7	02/10/15	Motion for Withdrawal of Reference. (Civ. No. 15-256).. Filed by Ronald Burkle, Jos Opdeweegh, Jeff Pelletier, Ira Tochner, Joseph Tomczak, Derex Walker, Yucaipa American Alliance (Parallel) Fund I, L.P., Yucaipa American Alliance (Parallel) Fund II, L.P., Yucaipa American Alliance Fund I, L.P., Yucaipa American Alliance Fund II, L.P.
8	02/10/15	Memorandum of Law in Support of Motion to Withdraw the Reference. (Civ. No. 15-256) Filed by Ronald Burkle, Jos Opdeweegh, Jeff Pelletier, Ira Tochner, Joseph Tomczak, Derex Walker, Yucaipa American Alliance (Parallel) Fund I, L.P., Yucaipa American Alliance (Parallel) Fund II, L.P., Yucaipa American Alliance Fund I, L.P., Yucaipa American Alliance Fund II, L.P..
9	02/10/15	Motion to Determine Defendants' Motion Pursuant to Local Rule 5011-1 to Determine Core/Non-Core Status. (Civ. No. 15-256) Filed by Ronald Burkle, Jos Opdeweegh, Jeff Pelletier, Ira Tochner, Joseph Tomczak, Derex Walker, Yucaipa American Alliance (Parallel) Fund I, L.P., Yucaipa American Alliance (Parallel) Fund II, L.P., Yucaipa American Alliance Fund I, L.P., Yucaipa American Alliance Fund II, L.P.
19	02/19/15	Answer to Complaint, Counterclaim by Ronald Burkle, Jos Opdeweegh, Jeff Pelletier, Ira Tochner, Joseph Tomczak, Derex Walker, Yucaipa American Alliance (Parallel) Fund I, L.P., Yucaipa American Alliance (Parallel) Fund II, L.P., Yucaipa American Alliance Fund I, L.P., Yucaipa American Alliance Fund II, L.P. against BDCM Opportunity Fund, II, LP, Black Diamond CLO 2005-1 Ltd., Black Diamond Commercial Finance, L.L.C., as Co-Administrative Agent, Spectrum Commercial Finance LLC, as Co-Administrative Agent, Spectrum Investment Partners, L.P. Filed by Ronald Burkle, Jos Opdeweegh, Jeff Pelletier, Ira Tochner, Joseph Tomczak, Derex Walker, Yucaipa American Alliance (Parallel) Fund I, L.P., Yucaipa American Alliance (Parallel) Fund II, L.P., Yucaipa American Alliance Fund I, L.P., Yucaipa American Alliance Fund II, L.P.
28	03/10/15	Response to Defendants' Motion to Withdraw the Reference. (Civ. No. 15-256) Filed by BDCM Opportunity Fund, II, LP, Black Diamond CLO 2005-1 Ltd., Black Diamond Commercial Finance, L.L.C., as Co-Administrative Agent, Spectrum Commercial Finance LLC, as Co-Administrative Agent, Spectrum Investment Partners, L.P.
29	03/10/15	Response to Defendants' Motion to Determine Core/Non-Core Status. (Civ. No. 15-256) Filed by BDCM Opportunity Fund, II, LP, Black Diamond CLO 2005-1 Ltd., Black Diamond Commercial Finance, L.L.C., as Co-Administrative Agent,

<b>Adv. Pro No. 14-50971, Docket No.</b>	<b>Date Filed</b>	<b>Description</b>
		Spectrum Commercial Finance LLC, as Co-Administrative Agent, Spectrum Investment Partners, L.P.
33	03/12/15	[SEALED] Answer to Complaint Counterclaim by Ronald Burkle, Jos Opdeweegh, Jeff Pelletier, Ira Tochner, Joseph Tomczak, Derex Walker, Yucaipa American Alliance (Parallel) Fund I, L.P., Yucaipa American Alliance (Parallel) Fund II, L.P., Yucaipa American Alliance Fund I, L.P., Yucaipa American Alliance Fund II, L.P. against BDCM Opportunity Fund, II, LP, Black Diamond CLO 2005-1 Ltd., Black Diamond Commercial Finance, L.L.C., as Co-Administrative Agent, Spectrum Commercial Finance LLC, as Co-Administrative Agent, Spectrum Investment Partners, L.P. Filed by Ronald Burkle, Jos Opdeweegh, Jeff Pelletier, Ira Tochner, Joseph Tomczak, Derex Walker, Yucaipa American Alliance (Parallel) Fund I, L.P., Yucaipa American Alliance (Parallel) Fund II, L.P., Yucaipa American Alliance Fund I, L.P., Yucaipa American Alliance Fund II, L.P.
45	03/20/15	Reply in Support of Defendants' Motion to Withdraw the Reference Filed by Ronald Burkle, Jos Opdeweegh, Jeff Pelletier, Ira Tochner, Joseph Tomczak, Derex Walker, Yucaipa American Alliance (Parallel) Fund I, L.P., Yucaipa American Alliance (Parallel) Fund II, L.P., Yucaipa American Alliance Fund I, L.P., Yucaipa American Alliance Fund II, L.P.
69	05/14/15	Certification of Counsel Regarding Agreed Order Concerning Defendants' Motion to Determine Core/Non-Core Status Filed by Ronald Burkle, Jos Opdeweegh, Jeff Pelletier, Ira Tochner, Joseph Tomczak, Derex Walker, Yucaipa American Alliance (Parallel) Fund I, L.P., Yucaipa American Alliance (Parallel) Fund II, L.P., Yucaipa American Alliance Fund I, L.P., Yucaipa American Alliance Fund II, L.P..
70	05/18/15	Agreed Order
73	03/24/15	Notice of Docketing (COPY FROM DISTRICT COURT) Motion to Withdraw the Reference. (Civil Action No. 15-256). (related document(s)7) (DMC) (Entered: 05/20/2015)
98	11/16/15	Order (COPY OF ORDER FROM DISTRICT COURT) Denying Motion to Withdraw the Reference and Motion for Interlocutory Appeal. Order Signed on 11/13/2015. Modified on 11/17/2015.
214	07/17/17	Order Substituting Plaintiffs and Amending Captions in Above-Referenced Adversary Proceedings to Reflect Litigation Trustee as Plaintiff
215	08/31/17	Certification of Counsel Regarding Agreed Amended Scheduling Order
452	05/01/20	Letter to The Honorable Karen B. Owens Regarding Yucaipa Defendants Motions for Summary Judgment Filed by Ronald Burkle, Jos Opdeweegh, Jeff Pelletier, Ira Tochner, Joseph

<b>Adv. Pro No. 14-50971, Docket No.</b>	<b>Date Filed</b>	<b>Description</b>
		Tomczak, Derex Walker, Yucaipa American Alliance (Parallel) Fund I, L.P., Yucaipa American Alliance Fund I, L.P.
453	05/01/20	Motion for Summary Judgment by Defendants Yucaipa American Alliance Fund I, L.P. and Yucaipa American Alliance (Parallel) Fund I, L.P.
454	05/01/20	[SEALED] Brief - Memorandum of Points and Authorities in Support of Motion For Summary Judgment by Defendants Yucaipa American Alliance Fund I, L.P., and Yucaipa American Alliance (Parallel) Fund I, L.P. Filed by Yucaipa American Alliance (Parallel) Fund I, L.P., Yucaipa American Alliance Fund I, L.P.
455	05/01/20	Motion For Summary Judgment by Ronald Burkle, Jos Opdeweegh, Derex Walker, Jeff Pelletier, and Ira Tochner
456	05/01/20	[SEALED] Brief - Memorandum of Points and Authorities in Support of Motion For Summary Judgment by Ronald Burkle, Jos Opdeweegh, Derex Walker, Jeff Pelletier, and Ira Tochner Filed by Jos Opdeweegh, Jeff Pelletier, Ira Tochner, Joseph Tomczak, Derex Walker.
457	05/01/20	[SEALED] Declaration of Kahn Scolnick in Support of Motion For Summary Judgment by Defendants Yucaipa American Alliance Fund I, L.P., Yucaipa American Alliance (Parallel) Fund I, L.P., Ronald Burkle, Jos Opdeweegh, Derex Walker, Jeff Pelletier, and Ira Tochner Filed by Jos Opdeweegh, Jeff Pelletier, Ira Tochner, Joseph Tomczak, Derex Walker, Yucaipa American Alliance (Parallel) Fund I, L.P., Yucaipa American Alliance Fund I, L.P.
458	05/01/20	[SEALED] Declaration of Derex Walker in Support of Motion for Summary Judgment Filed by Jos Opdeweegh, Jeff Pelletier, Ira Tochner, Joseph Tomczak, Derex Walker, Yucaipa American Alliance (Parallel) Fund I, L.P., Yucaipa American Alliance Fund I, L.P.
459	05/01/20	[SEALED] Declaration of Ira Tochner in Support of Motion for Summary Judgment Filed by Ira Tochner, Joseph Tomczak, Derex Walker, Yucaipa American Alliance (Parallel) Fund I, L.P., Yucaipa American Alliance Fund I, L.P.
460	05/01/20	[SEALED] Declaration of Jeff Pelletier in Support of Motion for Summary Judgment Filed by Jos Opdeweegh, Jeff Pelletier, Ira Tochner, Joseph Tomczak, Derex Walker, Yucaipa American Alliance (Parallel) Fund I, L.P., Yucaipa American Alliance Fund I, L.P.
461	05/01/20	[SEALED] Declaration of Jos Opdeweegh in Support of Motion for Summary Judgment Filed by Jos Opdeweegh, Jeff Pelletier, Ira Tochner, Joseph Tomczak, Derex Walker, Yucaipa American Alliance (Parallel) Fund I, L.P., Yucaipa American Alliance Fund I, L.P.
462	05/01/20	Litigation Trustee's Motion for Partial Summary Judgment

Adv. Pro No. 14-50971, Docket No.	Date Filed	Description
463	05/01/20	[SEALED] Memorandum of Law Litigation Trustee's Memorandum in Support of Motion for Partial Summary Judgment Filed by Catherine E. Youngman
464	05/01/20	[SEALED] Declaration in Support of Motion for Partial Summary Judgment of Gila S. Singer Filed by Catherine E. Youngman.
465	05/01/20	[NOTICE OF PROPOSED REDACTED VERSION OF DOCUMENT] Memorandum of Law in Support of Motion for Partial Summary Judgment Filed by Catherine E. Youngman
466	05/02/20	[NOTICE OF PROPOSED REDACTED VERSION OF DOCUMENT] Declaration in Support Support of Motion for Partial Summary Judgment of Gila S. Singer
470	05/06/20	Notice of Filing of Final Redacted Version of - (REDACTED) Memorandum of Points and Authorities in Support of Motion For Summary Judgment by Defendants Yucaipa American Alliance Fund I, L.P., and Yucaipa American Alliance (Parallel) Fund I, L.P. Filed by Yucaipa American Alliance (Parallel) Fund I, L.P., Yucaipa American Alliance Fund I, L.P.
471	05/06/20	Notice of Filing of Final Redacted Version of - (REDACTED) Memorandum of Points and Authorities in Support of Motion For Summary Judgment by Ronald Burkle, Jos Opdeweegh, Derex Walker, Jeff Pelletier, and Ira Tochner Filed by Ronald Burkle, Jos Opdeweegh, Jeff Pelletier, Ira Tochner, Joseph Tomczak, Derex Walker
472	05/06/20	Notice of Filing of Final Redacted Version of - (REDACTED) Declaration of Derex Walker in Support of Motion For Summary Judgment Filed by Ronald Burkle, Jos Opdeweegh, Jeff Pelletier, Ira Tochner, Joseph Tomczak, Derex Walker, Yucaipa American Alliance (Parallel) Fund I, L.P., Yucaipa American Alliance Fund I, L.P.
473	05/06/20	Notice of Filing of Final Redacted Version of - (REDACTED) Declaration of Ira Tochner in Support of Motion For Summary Judgment Filed by Ronald Burkle, Jos Opdeweegh, Jeff Pelletier, Ira Tochner, Joseph Tomczak, Derex Walker, Yucaipa American Alliance (Parallel) Fund I, L.P., Yucaipa American Alliance Fund I, L.P.
474	05/06/20	Notice of Filing of Final Redacted Version of - (REDACTED) Declaration of Jeff Pelletier in Support of Motion For Summary Judgment Filed by Ronald Burkle, Jos Opdeweegh, Jeff Pelletier, Ira Tochner, Joseph Tomczak, Derex Walker, Yucaipa American Alliance (Parallel) Fund I, L.P., Yucaipa American Alliance Fund I, L.P.
475	05/06/20	Notice of Filing of Final Redacted Version of - (REDACTED) Declaration of Jos Opdeweegh in Support of Motion For Summary Judgment Filed by Ronald Burkle, Jos Opdeweegh, Jeff Pelletier, Ira Tochner, Joseph Tomczak, Derex Walker, Yucaipa American Alliance (Parallel) Fund I, L.P., Yucaipa

<b>Adv. Pro No. 14-50971, Docket No.</b>	<b>Date Filed</b>	<b>Description</b>
		American Alliance Fund I, L.P.
476	05/06/20	Notice of Filing of Final Redacted Version of - (REDACTED) Declaration of Kahn Scolnick in Support of Motion For Summary Judgment by Defendants Yucaipa American Alliance Fund I, L.P., Yucaipa American Alliance (Parallel) Fund I, L.P., Ronald Burkle, Jos Opdeweegh, Derex Walker, Jeff Pelletier, and Ira Tochner Filed by Ronald Burkle, Jos Opdeweegh, Jeff Pelletier, Ira Tochner, Joseph Tomczak, Derex Walker, Yucaipa American Alliance (Parallel) Fund I, L.P., Yucaipa American Alliance Fund I, L.P.
479	05/08/20	[SEALED] Declaration of Ronald Burkle in Support of Motion for Summary Judgment Filed by Jos Opdeweegh, Jeff Pelletier, Ira Tochner, Joseph Tomczak, Derex Walker, Yucaipa American Alliance (Parallel) Fund I, L.P., Yucaipa American Alliance Fund I, L.P.
481	05/11/20	Declaration - (REDACTED) Declaration of Ronald Burkle in Support of Motion for Summary Judgment Filed by Jos Opdeweegh, Jeff Pelletier, Ira Tochner, Joseph Tomczak, Derex Walker, Yucaipa American Alliance (Parallel) Fund I, L.P., Yucaipa American Alliance Fund I, L.P.
502	08/14/20	Transcript regarding Hearing Held 8/11/20 RE: Status.
506	08/21/20	[SEALED] Brief - Memorandum of Points and Authorities in Support of Motion For Summary Judgment by Defendants Yucaipa American Alliance Fund I, L.P., and Yucaipa American Alliance (Parallel) Fund I, L.P. Filed by Yucaipa American Alliance (Parallel) Fund I, L.P., Yucaipa American Alliance Fund I, L.P.
507	08/21/20	Notice of Filing of Proposed Redacted Version of Brief Memorandum of Points and Authorities in Support of Motion For Summary Judgment by Defendants Yucaipa American Alliance Fund I, L.P., and Yucaipa American Alliance (Parallel) Fund I, L.P. Filed by Yucaipa American Alliance (Parallel) Fund I, L.P., Yucaipa American Alliance Fund I, L.P.
508	08/21/20	[SEALED] Brief - Memorandum of Points and Authorities in Support of Motion For Summary Judgment by Ronald Burkle, Jos Opdeweegh, Derex Walker, Jeff Pelletier, and Ira Tochner Filed by Jos Opdeweegh, Jeff Pelletier, Ira Tochner, Derex Walker.
509	08/21/20	Notice of Filing Proposed Redacted Version of Brief Memorandum of Points and Authorities in Support of Motion For Summary Judgment by Ronald Burkle, Jos Opdeweegh, Derex Walker, Jeff Pelletier, and Ira Tochner Filed by Jos Opdeweegh, Jeff Pelletier, Ira Tochner, Derex Walker.
510	08/21/20	[SEALED] Brief - Opposition to the Litigation Trustee's Motion for Summary Judgment by Defendants Yucaipa American Alliance Fund I, L.P., Yucaipa American Alliance (Parallel) Fund I, L.P., Ronald Burkle, Ira Tochner, Derex Walker, Jos



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		Opdeweegh, and Jeff Pelletier Filed by Jos Opdeweegh, Jeff Pelletier, Ira Tochner, Derex Walker, Yucaipa American Alliance (Parallel) Fund I, L.P., Yucaipa American Alliance Fund I, L.P.
511	08/21/20	[SEALED] Declaration of Kahn Scolnick in Support of Yucaipa Defendants' Opposition to the Litigation Trustee's Motion for Summary Judgment Filed by Jos Opdeweegh, Jeff Pelletier, Ira Tochner, Derex Walker, Yucaipa American Alliance (Parallel) Fund I, L.P., Yucaipa American Alliance Fund I, L.P.
512	08/21/20	[SEALED] Objection /Litigation Trustee's Opposition To The Motion For Summary Judgment By Ronald Burkle, Jos Opdeweegh, Derex Walker, Jeff Pelletier, And Ira Tochner Filed by Catherine E. Youngman
513	08/21/20	Notice of Filing of Proposed Redacted Version of Litigation Trustee's Opposition To The Motion For Summary Judgment By Ronald Burkle, Jos Opdeweegh, Derex Walker, Jeff Pelletier, And Ira Tochner Filed by Catherine E. Youngman
514	08/21/20	[SEALED] Objection /Litigation Trustee's Opposition To The Motion For Summary Judgment By Defendants Yucaipa American Alliance Fund I, L.P., And Yucaipa American Alliance (Parallel) Fund I, L.P. Filed by Catherine E. Youngman
515	08/21/20	Notice of Filing of Proposed Redacted Version of Litigation Trustee's Opposition To The Motion For Summary Judgment By Defendants Yucaipa American Alliance Fund I, L.P., And Yucaipa American Alliance (Parallel) Fund I, L.P. Filed by Catherine E. Youngman
516	08/21/20	Declaration in Support /Declaration Of Gila S. Singer In Support Of Litigation Trustee's Oppositions To The Motion For Summary Judgment By Defendants Yucaipa American Alliance Fund I, L.P., And Yucaipa American Alliance (Parallel) Fund I, L.P., And The Motion For Summary Judgment By Ronald Burkle, Jos Opdeweegh, Derex Walker, Jeff Pelletier, And Ira Tochner
519	08/26/20	Notice of Filing of Proposed Redacted Version of Document - (REDACTED) Opposition to the Litigation Trustee's Motion for Summary Judgment by Defendants Yucaipa American Alliance Fund I, L.P., Yucaipa American Alliance (Parallel) Fund I, L.P., Ronald Burkle, Ira Tochner, Derex Walker, Jos Opdeweegh, and Jeff Pelletier Filed by Jos Opdeweegh, Jeff Pelletier, Ira Tochner, Derex Walker, Yucaipa American Alliance (Parallel) Fund I, L.P., Yucaipa American Alliance Fund I, L.P.
520	08/26/20	Notice of Filing of Proposed Redacted Version of Document - (RDACTED) Declaration of Kahn Scolnick in Support of Yucaipa Defendants' Opposition to the Litigation Trustee's Motion for Summary Judgment Filed by Jos Opdeweegh, Jeff Pelletier, Ira Tochner, Derex Walker, Yucaipa American Alliance (Parallel) Fund I, L.P., Yucaipa American Alliance

<b>Adv. Pro No. 14-50971, Docket No.</b>	<b>Date Filed</b>	<b>Description</b>
		Fund I, L.P.
533	12/01/20	Stipulation of Voluntary Dismissal of Claims Against Former Director Defendants With Prejudice Between Catherine E. Youngman and Yucaipa American Alliance Fund I, L.P., Yucaipa American Alliance (Parallel) Fund I, L.P., Jos Opdeweegh, Derex Walker, Ira Tochner, and Jeff Pelletier, and Defendant Mark Gendregske . Filed by Catherine E. Youngman
534	12/07/20	Stipulation Voluntary Dismissal With Prejudice Solely With Respect to Defendant Ronald Burkle Between Catherine E. Youngman and Defendants Jos Opdeweegh, Derex Walker, Ira Tochner, Jeff Pelletier, and Ronald Burkle, and Defendants Yucaipa American Alliance Fund I, L.P., Yucaipa American Alliance (Parallel) Fund I, L.P. . Filed by Catherine E. Youngman
535	12/18/20	[SEALED]Memorandum of Law Litigation Trustees Reply Memorandum in Further Support of Motion for Summary Judgment Filed by Catherine E. Youngman
536	12/18/20	Memorandum of Law Litigation Trustee's Reply Memorandum in Further Support of Motion for Summary Judgment Filed by Catherine E. Youngman.
537	12/18/20	[SEALED] Declaration of Gila S. Singer in Support of Litigation Trustees Reply Memorandum in Further Support of Motion for Partial Summary Judgment Filed by Catherine E. Youngman
538	12/18/20	Declaration of Gila S. Singer in Support of Litigation Trustees Reply Memorandum in Further Support of Motion for Partial Summary Judgment Filed by Catherine E. Youngman
539	12/18/20	[SEALED] Declaration of Richard A. Ehrlich in Support of Litigation Trustees Reply Memorandum in Further Support of Motion for Partial Summary Judgment Filed by Catherine E. Youngman
540	12/18/20	Notice of Proposed Redacted Version of Document: Declaration of Richard A. Ehrlich in Support of Litigation Trustees Reply Memorandum in Further Support of Motion for Partial Summary Judgment Filed by Catherine E. Youngman
541	12/18/20	[SEALED] Declaration of Adam C. Harris in Support of Litigation Trustees Reply Memorandum in Further Support of Motion for Partial Summary Judgment Filed by Catherine E. Youngman
542	12/18/20	Declaration of Adam C. Harris in Support of Litigation Trustee's Reply Memorandum in Further Support of Motion for Partial Summary Judgment Filed by Catherine E. Youngman
543	12/18/20	Declaration of Jeffrey A. Schaffer in Support of Litigation Trustee's Reply Memorandum in Further Support of Motion for Partial Summary Judgment Filed by Catherine E. Youngman
544	12/18/20	[SEALED] Reply in Support of Motion for Summary Judgment by Defendants Yucaipa American Alliance Fund I, L.P., and

<b>Adv. Pro No. 14-50971, Docket No.</b>	<b>Date Filed</b>	<b>Description</b>
		Yucaipa American Alliance (Parallel) Fund I, L.P. Filed by Yucaipa American Alliance (Parallel) Fund I, L.P., Yucaipa American Alliance Fund I, L.P.
545	12/18/20	[SEALED] Declaration of Maurice M. Suh in Further Support of Yucaipa Defendants' Motion for Summary Judgment Filed by Yucaipa American Alliance (Parallel) Fund I, L.P., Yucaipa American Alliance Fund I, L.P.
549	12/23/20	Notice of Filing of Proposed Redacted Version of Document - (REDACTED) Reply in Support of Motion for Summary Judgment by Defendants Yucaipa American Alliance Fund I, L.P., and Yucaipa American Alliance (Parallel) Fund I, L.P. Filed by Yucaipa American Alliance (Parallel) Fund I, L.P., Yucaipa American Alliance Fund I, L.P.
556	02/08/21	Letter to Chief Judge Sontchi regarding letter briefs addressing Maxus case Filed by Catherine E. Youngman
558	02/19/21	Letter to the Honorable Christopher S. Sontchi from Kahn Scolnick Regarding Applicability of In re Maxus Energy Corp. Filed by Yucaipa American Alliance (Parallel) Fund I, L.P., Yucaipa American Alliance Fund I, L.P.
559	02/19/21	Letter to Chief Judge Christopher S. Sontchi Filed by Catherine E. Youngman
560	02/23/21	Letter to the Honorable Christopher S. Sontchi Regarding Response to Litigation Trustee's Letter on Applicability of In re Maxus Energy Corp. Filed by Yucaipa American Alliance (Parallel) Fund I, L.P., Yucaipa American Alliance Fund I, L.P.
563	05/04/21	Opinion
564	05/04/21	Order
566	05/18/21	Objection to Proposed Findings of Fact and Conclusions of Law Pursuant to FRBP 9033 Filed by Yucaipa American Alliance (Parallel) Fund I, L.P., Yucaipa American Alliance Fund I, L.P.
567	05/18/21	Letter to Judge Sontchi Transmitting Proposed Judgment Filed by Catherine E. Youngman
568	05/18/21	Objection to Entry of Judgment and Additional Objections to the Proposed Form of Judgment Submitted by the Litigation Trustee; Request for Stay in the Alternative Filed by Yucaipa American Alliance (Parallel) Fund I, L.P., Yucaipa American Alliance Fund I, L.P.
574	06/22/21	Litigation Trustee's Memorandum In Response To: (1) Yucaipa's Objections To Summary Judgment Opinion And Order, Entry Of Judgment, And Proposed Form Of Judgment, And (2) Questions From The Court Filed by Catherine E. Youngman
575	06/22/21	Letter to Chief Judge Sontchi regarding Amended Proposed Form of Judgment Filed by Catherine E. Youngman.
576	06/22/21	Defendants Yucaipa American Alliance Fund I, L.P. and Yucaipa American Alliance (Parallel) Fund I, L.P.'s Reply in Further Support of Its Objections to the Entry of Judgment Filed

<b>Adv. Pro No. 14-50971, Docket No.</b>	<b>Date Filed</b>	<b>Description</b>
		by Yucaipa American Alliance (Parallel) Fund I, L.P., Yucaipa American Alliance Fund I, L.P.
577	06/22/21	Motion for Leave to File Defendants Yucaipa American Alliance Fund I, L.P. and Yucaipa American Alliance (Parallel) Fund I, L.P.'s Reply in Further Support of Its Objections to the Entry of Judgment Filed by Yucaipa American Alliance (Parallel) Fund I, L.P., Yucaipa American Alliance Fund I, L.P.
578	06/23/21	Order Granting Motion for Leave to File Defendants Yucaipa American Alliance Fund I, L.P. and Yucaipa American Alliance (Parallel) Fund I, L.P.'s Reply in Further Support of Its Objections to the Entry of Judgment
579	06/23/21	Judgment
583	06/25/21	Motion To Stay Pending Appeal Filed by Yucaipa American Alliance (Parallel) Fund I, L.P., Yucaipa American Alliance Fund I, L.P.
	06/25/21	Emergency Motion to Shorten Notice and Schedule Hearing on Defendants Yucaipa American Alliance Fund I, L.P. and Yucaipa American Alliance (Parallel) Fund I, L.P.'s Motion for Stay of Effectiveness and Enforcement of Judgment Pending Appeal Pursuant to Bankruptcy Rules 7062 and 8007(a) by Yucaipa American Alliance (Parallel) Fund I, L.P., Yucaipa American Alliance Fund I, L.P.
585	06/25/21	Order (WITH REVISION OF THE COURT) Granting Emergency Motion to Shorten Notice and Schedule Hearing on Defendants Yucaipa American Alliance Fund I, L.P. and Yucaipa American Alliance (Parallel) Fund I, L.P.'s Motion for Stay of Effectiveness and Enforcement of Judgment Pending Appeal
586	06/25/21	Notice of Hearing Regarding Defendants Yucaipa American Alliance Fund I, L.P. and Yucaipa American Alliance (Parallel) Fund I, L.P.'s Motion for Stay of Effectiveness and Enforcement of Judgment Pending Appeal Pursuant to Bankruptcy Rules 7062 and 8007(a) Filed by Yucaipa American Alliance (Parallel) Fund I, L.P., Yucaipa American Alliance Fund I, L.P.
593	07/06/21	ORDER STAYING ENFORCEMENT OF JUDGMENT
594	07/06/21	Notice of Appeal

**Case No. 12-11564 (Main Bankruptcy Proceeding)**

1837	09/17/13	Order [WITH REVISIONS BY THE COURT] (A) Approving Asset Purchase Agreement and Authorizing the Sale of Assets of the Debtors Outside the Ordinary Course of Business, (B) Authorizing the Sale of Assets Free and Clear of all Liens, Claims, Encumbrances and Interests, (C) Authorizing the Assumption and Sale and Assignment of Certain Executory Contracts and Unexpired Leases, and (D) Granting Further
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		Relief
3014	06/17/15	Disclosure Statement in Support of Debtors' Joint Chapter 11 Plan of Reorganization Proposed by the Debtors, the Committee and the First Lien Agents
3360	12/03/15	Notice of Filing Further Revised Version of Debtors' First Amended Joint Chapter 11 Plan of Reorganization Proposed by the Debtors, the Committee and the First Lien Agents
3383	12/09/15	Findings of Fact, Conclusions of Law, and Order Confirming the Modified First Amended Joint Chapter 11 Plan of Reorganization Proposed by the Debtors, the Committee and the First Lien Agents

## II. Statement of the Issues to be Presented on Appeal

1. On June 23, 2021, the Bankruptcy Court entered a judgment resulting from the May 4, 2021 Opinion and Order granting in part and denying in part the cross-motions for summary judgment filed by Plaintiff Catherine E. Youngman (the "Litigation Trustee") and Defendants Yucaipa American Alliance (Parallel) Fund I, L.P., Yucaipa American Alliance Fund I, L.P. (collectively, "Yucaipa") in these two related adversary proceedings. The Bankruptcy Court's Judgment should be reversed on appeal because, among other things, the Bankruptcy Court incorrectly entered a final judgment on non-core claims instead of proposed findings of fact and conclusions of law, resolved genuine disputed issues of material fact and failed to adhere to fundamental standards when ruling on summary judgment motions, and entered a partial judgment on certain claims that are actually intertwined with unadjudicated claims that will proceed to trial, thus prejudicing Yucaipa.

2. There are no fewer than thirteen issues in this appeal:

- a. First, whether the Bankruptcy Court abused its discretion by finding that there was no just reason for delay and issuing a judgment pursuant to Federal Rule of Civil Procedure 54 on Estate Claim 5 for Breach of Contract, Estate Claims 10 and 11 for Constructive Fraudulent Transfer, and Estate Claim 13 for

Disallowance of Claims, against Yucaipa and in favor of the Litigation Trustee, thereby adjudicating fewer than all of the Estate Claims and leaving additional claims and remedies sought by the Lenders outstanding. Among other things, since there are overlapping issues, the Court's summary adjudication will necessarily create confusion and potentially conflicting findings and rulings.

- b. Second, whether the Bankruptcy Court exceeded its jurisdiction by issuing a judgment (rather than submitting proposed findings of fact and conclusions of law to the district court) on non-core claims when it entered judgment against Yucaipa and in favor of the Litigation Trustee on Estate Claim 5, for Breach of Contract, and whether this Court should treat the Opinion and Order upon which the Judgment is based as proposed findings of fact and conclusions of law pursuant to Federal Rule of Bankruptcy Procedure 8018.1.
- c. Third, whether the Bankruptcy Court erred in finding that the Litigation Trustee could enforce the capital contribution provision of the Third Amendment to the First Lien Credit Agreement ("Third Amendment") when it entered judgment against Yucaipa and in favor of the Litigation Trustee on Estate Claim 5, for Breach of Contract, including but not limited to because the Debtor was not an intended beneficiary of the provision, the Debtor waived its right to enforce the provision and/or the Debtor is otherwise estopped from doing so.
- d. Fourth, whether the Bankruptcy Court erred by issuing a judgment against Yucaipa and in favor of the Litigation Trustee on Estate Claim 5, for Breach of Contract, when the record indicates at least a genuine issue of material fact as to the applicability of Yucaipa's affirmative defenses to that claim.



- e. Fifth, whether the Bankruptcy Court erred in finding that the Litigation Trustee proved the element of damages in connection with Estate Claim 5, for Breach of Contract.
- f. Sixth, whether the Bankruptcy Court erred in awarding \$57.4 million in damages arising from Yucaipa's alleged breach of contract, when the record indicates at least a genuine issue of material fact as to the existence and amount of damages, if any.
- g. Seventh, whether the Bankruptcy Court erred in finding that the measure of damages for Estate Claim 5, for Breach of Contract, should be calculated as though Yucaipa would have made a capital contribution in cash pursuant to the Third Amendment, notwithstanding that, among other things, the Capital Contribution provision referred only to the contribution of Term Loans, not cash, and Yucaipa would not and could not have made the Capital Contribution in cash had it made a Capital Contribution pursuant to the Third Amendment.
- h. Eighth, whether the Bankruptcy Court erred in granting Summary Judgment on Estate Claim 5, for Breach of Contract, against Yucaipa and in favor of the Litigation Trustee, on the ground that the covenant not to sue, found in section 2.7(f)(v) of the Third Amendment, does not bar Estate Claim 5, including but not limited to because, (i) the provision unambiguously applies to bar Estate Claim 5, (ii) in the alternative, the record indicates at least a genuine issue of material fact as to the interpretation of section 2.7(f)(v), and (iii) in either event, the provision was intended to bar suit by the Debtor.

- i. Ninth, whether the Bankruptcy Court erred in granting Summary Judgment on Estate Claims 10, 11, and 13, for Constructive Fraudulent Transfers and Disallowance of Claims, against Yucaipa and in favor of the Litigation Trustee, on the ground that the Debtor was not contractually obligated, under section 10.2 of the First Lien Credit Agreement, to reimburse Yucaipa for the applicable transfers, despite the existence of controverting evidence creating, at the least, a genuine issue of material fact.
- j. Tenth, whether the Bankruptcy Court erred in granting Summary Judgment on Estate Claims 10, 11, and 13, for Constructive Fraudulent Transfers and Disallowance of Claims, against Yucaipa and in favor of the Litigation Trustee, on the ground that the Debtor was not contractually obligated under the Management and Monitoring Services Agreement, to reimburse and/or indemnify Yucaipa for the applicable transfers, despite the existence of controverting evidence creating, at the least, a genuine issue of material fact.
- k. Eleventh, whether the Bankruptcy Court erred in granting Summary Judgment on Estate Claims 10, 11, and 13, for Constructive Fraudulent Transfer and Disallowance of Claims, against Yucaipa and in favor of the Litigation Trustee, on the ground that the Debtor did not receive reasonably equivalent value in exchange for the applicable transfers, despite the existence of controverting evidence creating, at the least, a genuine issue of material fact, including but not limited to because the record indicates at least a genuine issue of material fact as to direct and indirect value received by the Debtor in exchange for the applicable transfers and the amount thereof.

- l. Twelfth, whether the Bankruptcy Court erred in granting Summary Judgment on Estate Claim 13, for Disallowance of Claims, against Yucaipa and in favor of the Litigation Trustee, despite controverting evidence creating, at the least, genuine issues of material fact as to Yucaipa's liability regarding the Fraudulent Transfer claims.
- m. Thirteenth, whether the Bankruptcy Court erred in awarding prejudgment interest on the Fraudulent Transfer claims at a rate in excess of 6%.

### **III. Certificate Regarding Transcripts**

Pursuant to Rule 8009(b)(1)(B) of the Federal Rules of Bankruptcy Procedure, Appellant hereby files this certificate stating that Appellant is not ordering any transcripts. All transcripts have been prepared and are filed on the docket and are designated in the foregoing designation of the record.

\* \* \*

Yucaipa reserves any and all rights to amend this Designation of Record on Appeal and Statement of the Issues to Be Presented on Appeal, each as set forth herein, including, without limitation, to identify and to include additional issues and items for inclusion in the record on appeal.

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Dated: July 19, 2021

PACHULSKI STANG ZIEHL & JONES LLP

/s/ Laura Davis Jones

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